

April 18, 2011

Vera Todorov
Vice President
Association of Legal Professionals
c/o City Attorney's Office
200 E. Santa Clara Street
San Jose, CA 95113

RE: Recommendation to Reject ALP's Package Proposal "B"

Dear Ms. Todorov:

We are in receipt of the letter dated April 15, 2011, from the Association of Legal Professionals (ALP), related to ALP's Package Proposal "B." The following will confirm our understanding of our meeting of Thursday, April 14th.

1. Since the commencement of negotiations, the City has indicated an interest in negotiating changes to certain benefits, including but not limited to, retirement, SRBR and the public transit subsidy. As you know, our current negotiations have focused on matters relating to the City's immediate fiscal situation. We feel that it is appropriate to take the time to educate and negotiate these longer-term structural issues with the bargaining units over the next several months rather than push forward with proposals during the current negotiations.
2. The City has achieved agreements that include side letters with four of the City's bargaining units and is seeking side letters with the remaining seven bargaining units, including ALP, to preserve the City's ability to continue negotiations on the topics indicated in the side letters proposed by the City. As explained during our negotiation session on April 14th, a side letter is not necessary in order for the City to implement changes to wages or benefits for unrepresented employees. Unrepresented employees do not have meet and confer rights, like ALP.
3. During our meeting on April 14th, the City bargaining team suggested that, as an alternative to a side letter, the City could accept language consistent with the language in ALP's existing tentative agreement for Fiscal Year 2010-2011, which

permits changes in matters not covered by the Tentative Agreement after notice and an appropriate opportunity to bargain. ALP indicated that they would not agree to anything as "open ended" as the language of the current Tentative Agreement. Furthermore, although it was not included in your package proposal, ALP indicated that it wanted a "zipper clause" in a Tentative Agreement reached with the City. Our understanding is that ALP's "zipper clause" would preclude negotiations or changes in matters within the scope of representation but which were not part of the current agreement.

4. The City is not willing to agree to a zipper clause waiving its right to bargain over matters within the scope of representation.

Once more, we appreciate ALP's efforts to come to a mutual agreement with the City and acknowledge the difficult issues that both the City and ALP are trying to address. We look forward to the opportunity to meet with you on April 21st. Please let me know if you have any questions.

Sincerely,



Gina Donnelly
Deputy Director of Employee Relations

c: William Clark, ALP President
Brian Doyle, ALP Negotiation Team Member
Michael Dodson, ALP Negotiation Team Member
Barbara Jordan, ALP Negotiation Team Member
Charles Sakai, City Negotiation Team Member
Marco Mercado, City Negotiation Team Member